

or place: *Provided*, That all such birds shall be physically marked prior to sale or disposal regardless of whether or not they have attained 6 weeks of age.

(d) When so marked, such live birds may be killed, in any number, at any time or place, by any means except shooting. Such birds may be killed by shooting only in accordance with all applicable hunting regulations governing the taking of mallard ducks from the wild: *Provided*, That such birds may be killed by shooting, in any number, at any time, within the confines of any premises operated as a shooting preserve under State license, permit, or authorization; or they may be shot, in any number, at any time or place, by any person for bona fide dog training or field trial purposes: *Provided further*, That the provisions:

(1) The hunting regulations (part 20 of this subchapter), with the exception of §20.108 (Nontoxic shot zones), and

(2) The Migratory Bird Hunting Stamp Act (duck stamp requirement) shall not apply to shooting preserve operations as provided for in this paragraph, or to bona fide dog training or field trial operations.

(e) At all times during possession, transportation, and storage until the raw carcasses of such birds are finally processed immediately prior to cooking, smoking, or canning, the marked foot or wing must remain attached to each carcass: *Provided*, That persons, who operate game farms or shooting preserves under a State license, permit, or authorization for such activities, may remove the marked foot or wing when either the number of his State license, permit, or authorization has first been legibly stamped in ink on the back of each carcass and on the container in which each carcass is maintained, or each carcass is identified by a State band on leg or wing pursuant to requirements of his State license, permit, or authorization. When properly marked, such carcasses may be disposed of to, or acquired from, any person and possessed and transported in any number at any time or place.

[40 FR 28459, July 7, 1975, as amended at 46 FR 42680, Aug. 24, 1981; 54 FR 36798, Sept. 5, 1989]

§21.14 Permit exceptions for captive-bred migratory waterfowl other than mallard ducks.

You may acquire captive-bred and properly marked migratory waterfowl of all species other than mallard ducks (*Anas platyrhynchos*), alive or dead, or their eggs, and possess and transport such birds or eggs and any progeny or eggs for your use without a permit, subject to the following conditions and restrictions. Additional restrictions on the acquisition and transfer of muscovy ducks (*Cairina moschata*) are in paragraph (g) of this section.

(a) You may acquire live waterfowl or their eggs only from a holder of a valid waterfowl sale and disposal permit in the United States. You also may lawfully acquire them outside of the United States with appropriate permits (see §21.21 of subpart C of this part).

(b) All progeny of captive-bred birds or eggs from captive-bred birds must be physically marked as set forth in §21.13(b).

(c) You may not transfer or dispose of captive-bred birds or their eggs, whether alive or dead, to any other person unless you have a waterfowl sale and disposal permit (see §21.25 of subpart C of this part).

(d) Lawfully possessed and properly marked birds may be killed, in any number, at any time or place, by any means except shooting. Such birds may be killed by shooting only in accordance with all applicable hunting regulations governing the taking of like species from the wild (see part 20 of this subchapter).

(e) At all times during possession, transportation, and storage until the raw carcasses of such birds are finally processed immediately prior to cooking, smoking, or canning, you must leave the marked foot or wing attached to each carcass, unless the carcass was marked as provided in §21.25(b)(6) and the foot or wing was removed prior to your acquisition of the carcass.

(f) If you acquire captive-bred waterfowl or their eggs from a waterfowl sale and disposal permittee, you must retain the FWS Form 3-186, Notice of Waterfowl Sale or Transfer, from the permittee for as long as you have the birds, eggs, or progeny of them.

(g) You may not acquire or possess live muscovy ducks, their carcasses or parts, or their eggs, except to raise them to be sold as food, and except that you may possess any live muscovy duck that you lawfully acquired prior to March 31, 2010. If you possess muscovy ducks on that date, you may not propagate them or sell or transfer them to anyone for any purpose, except to be used as food. You may not release them to the wild, sell them to be hunted or released to the wild, or transfer them to anyone to be hunted or released to the wild.

(h) Dealers in meat and game, hotels, restaurants, and boarding houses may serve or sell to their customers the carcass of any bird acquired from a holder of a valid waterfowl sale and disposal permit.

[75 FR 9320, Mar. 1, 2010]

§21.15 Authorization of take incidental to military readiness activities.

(a) Take authorization and monitoring.

(1) Except to the extent authorization is withdrawn or suspended pursuant to paragraph (b) of this section, the Armed Forces may take migratory birds incidental to military readiness activities provided that, for those ongoing or proposed activities that the Armed Forces determine may result in a significant adverse effect on a population of a migratory bird species, the Armed Forces must confer and cooperate with the Service to develop and implement appropriate conservation measures to minimize or mitigate such significant adverse effects.

(2) When conservation measures implemented under paragraph (a)(1) of this section require monitoring, the Armed Forces must retain records of any monitoring data for five years from the date the Armed Forces commence their action. During Integrated Natural Resource Management Plan reviews, the Armed Forces will also report to the Service migratory bird conservation measures implemented and the effectiveness of the conservation measures in avoiding, minimizing, or mitigating take of migratory birds.

(b) Suspension or Withdrawal of take authorization. (1) If the Secretary determines, after seeking the views of the

Secretary of Defense and consulting with the Secretary of State, that incidental take of migratory birds during a specific military readiness activity likely would not be compatible with one or more of the migratory bird treaties, the Secretary will suspend authorization of the take associated with that activity.

(2) The Secretary may propose to withdraw, and may withdraw in accordance with the procedures provided in paragraph (b)(4) of this section the authorization for any take incidental to a specific military readiness activity if the Secretary determines that a proposed military readiness activity is likely to result in a significant adverse effect on the population of a migratory bird species and one or more of the following circumstances exists:

(i) The Armed Forces have not implemented conservation measures that:

(A) Are directly related to protecting the migratory bird species affected by the proposed military readiness activity;

(B) Would significantly reduce take of the migratory bird species affected by the military readiness activity;

(C) Are economically feasible; and

(D) Do not limit the effectiveness of the military readiness activity;

(ii) The Armed Forces fail to conduct mutually agreed upon monitoring to determine the effects of a military readiness activity on migratory bird species and/or the efficacy of the conservation measures implemented by the Armed Forces; or

(iii) The Armed Forces have not provided reasonably available information that the Secretary has determined is necessary to evaluate whether withdrawal of take authorization for the specific military readiness activity is appropriate.

(3) When the Secretary proposes to withdraw authorization with respect to a specific military readiness activity, the Secretary will first provide written notice to the Secretary of Defense. Any such notice will include the basis for the Secretary's determination that withdrawal is warranted in accordance with the criteria contained in paragraph (b)(2) of this section, and will identify any conservation measures or